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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

FABIOLA FRAGOSO, individually;

Case No.: 2:22-cv-01507-CDS-EJY

Plaintiff,

vs.

WAL-MART, INC., a foreign corporation; DOE
 EMPLOYEES; DOE MANAGERS; DOES I-XX,
 inclusive; and ROE CORPORATIONS I-XX,
 inclusive,

**STIPULATION AND ORDER TO
 EXTEND DISCOVERY PLAN AND
 SCHEDULING ORDER
 (FOURTH REQUEST)**

Defendants.

Plaintiff FABIOLA FRAGOSO, by and through her counsel of record, ASH MARIE BLACKBURN, ESQ., of BLACKBURN WIRTH, LLP, and Defendant WAL-MART, INC., by and through its counsel of record, KURT R. BONDS, ESQ, and TANYA M. FRASER, ESQ. of HALL & EVANS, LLC, hereby submit the instant Stipulation and Order to Extend the Discovery Plan and Scheduling Order (Fourth Request) pursuant to LR IA 6-1 and LR 26-3 as follows:

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I.

PROCEDURAL HISTORY

This lawsuit involves allegations that Plaintiff FABIOLA FRAGOSO (hereinafter “FRAGOSO”) suffered serious injuries related to a slip and fall on Defendant’s premises. On June 30, 2022, Plaintiff filed her Complaint against Defendant WAL-MART, INC. with the Eighth Judicial District Court for Clark County, Nevada. On September 31, 2022, Defendant WAL-MART, INC. filed its Answer denying Plaintiffs’ allegations and denying all liability for the injuries. On September 8, 2022, Plaintiff filed her Request for Exemption from Arbitration in which she outlined her claimed injuries and alleged damages. On September 12, 2022, Defendant WAL-MART, INC. filed its Notice of Removal and removed the matter to this Court based on diversity jurisdiction. On September 15, 2022, Defendant WAL-MART, INC. filed its Statement Regarding Removal. The parties participated in the Fed. R. Civ. P. 26(f) conference on October 12, 2022, and filed their proposed Joint Discovery Plan and Scheduling Order which was entered by this Court on October 27, 2022.

II.

DISCOVERY COMPLETED

To date, Plaintiff has completed the following discovery:

- Plaintiff’s FRCP 26 Initial Disclosure, served October 26, 2022;
- Plaintiff’s First Set of Interrogatories to Defendant WAL-MART, INC., served December 12, 2022;
- Plaintiff’s First Set of Requests for Production to Defendant WAL-MART, INC., served December 12, 2022;
- Plaintiff’s First Supplemental FRCP 26 Disclosure, served March 3, 2023;
- Plaintiff’s Second Supplemental FRCP 26 Disclosure, served March 13, 2023;
- Deposition of Dana James on March 21, 2023;
- Plaintiff’s Third Supplemental FRCP 26 Disclosure, served April 25, 2023;
- Deposition of David Rosas on April 27, 2023;
- Plaintiff’s Second Set of Requests for Production to Defendant WAL-MART, INC., served June 5, 2023;

- Plaintiff's Fourth Supplemental FRCP 26 Disclosure, served June 28, 2023;
- Deposition of Dark Sword on April 1, 2024;
- Deposition of Walmart's Person Most Knowledgeable 30(b)(6) Deponent on March 25, 2024;
- Deposition of Joshua Oberhausen on May 16, 2024;
- Plaintiff's Fifth Supplemental FRCP 26 Disclosure, served September 26, 2023;
- Plaintiff's Sixth Supplemental FRCP 26 Disclosure, served October 26, 2023;
- Plaintiff's Seventh Supplemental FRCP 26 Disclosure, served March 4, 2024;
- Plaintiff's Eighth Supplemental FRCP 26 Disclosure, served April 10, 2024;
- Plaintiff's Ninth Supplemental FRCP 26 Disclosure, served May 10, 2024;
- Plaintiff's Initial FRCP 26 Expert Disclosure, served May 10, 2024.

To date, Defendant WAL-MART, INC. has completed the following discovery:

- Defendant's FRCP 26 Initial Disclosure, served October 28, 2022;
- Deposition of Fabiola Fragoso on April 26, 2023;
- Defendant's Answers to Plaintiff's First Set of Interrogatories, served February 17, 2023;
- Defendant's Responses to Plaintiff's First Set of Requests for Production, served on February 17, 2023;
- Defendant's First Supplemental Responses to Plaintiff's First Set of Requests for Production, served on March 3, 2023;
- Defendant's First Supplemental FRCP 26 Disclosure, served March 3, 2023;
- Defendant's Second Supplemental FRCP 26 Disclosure, served April 12, 2023;
- Deposition of James Burris on June 28, 2023;
- Defendant's Responses to Plaintiff's Second Set of Requests for Production, served July 14, 2023;
- Defendant's Third Supplemental FRCP 26 Disclosure, served July 14, 2023;
- Defendant's Fourth Supplemental FRCP 26 Disclosure, served May 21, 2024;
- Defendant's Supplemental Responses to Plaintiff's Request for Production, served May 21, 2024;

- Defendant's Supplemental Responses to Plaintiff's Request for Interrogatories, served May 21, 2024;
- Defendant's 5th Supplemental FRCP 26 Disclosure, served June 5, 2024;
- Site Inspection, May 11, 2024;
- Defendant's Initial Expert Disclosure, served May 10, 2024.

III.

DISCOVERY REMAINING TO BE COMPLETED

- Depositions of Plaintiff's treating providers;
- Rebuttal expert designations and reports;
- Depositions of Initial and Rebuttal Experts.

The parties have diligently worked to move the case forward, including the exchange of initial disclosures, fact witness depositions, party depositions and the securing of independent copies of Plaintiff's medical records. The parties have diligently worked through discovery; however, Defendant's life care planner and human factors experts developed unexpected conflicts in completing their respective rebuttal expert reports by the June 27, 2024, deadline. In order to avoid any potential motion practice or further delay, the parties are agreeable to a fourteen-day extension of only the rebuttal expert disclosure deadlines due to the conflict. Further, the parties have agreed to private mediation to be held July 26, 2024, with the Honorable Jackie Glass (Ret.). Consequently, good cause exists to extend the discovery deadlines to give sufficient time for Defendant's experts to complete their rebuttal expert reports. This extension will also assist the parties in adequately mediating this matter, and hopefully reaching an early resolution.

Based upon the foregoing, the parties respectfully request an extension of the current deadlines as indicated in the chart below.

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IV.

PROPOSED DISCOVERY SCHEDULE AND TRIAL DATE

	Current Date	Proposed Date
Discovery Cut-Off:	07/26/2024	CLOSED
Motions to Amend Pleadings / Add Parties:	05/02/2024	CLOSED
Initial Expert Disclosures:	05/02/2024	CLOSED
Rebuttal Expert Disclosures:	06/27/2024	07/11/2024
Dispositive Motions:	08/26/2024	08/26/2024
Joint Pre-Trial Order:	10/02/2024	10/02/2024

This is the fourth request for an extension of time in this matter and no trial date will be impacted by the extension as no such trial date has been set. The parties submit that the reasons set forth above constitute good cause for the requested extension.

DATED this 27th day of June, 2024.

Dated this 27th day of June, 2024.

BLACKBURN WIRTH, LLP

HALL & EVANS, LLC

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Attorney for Plaintiff

Attorneys for Defendant

IT IS SO ORDERED.


 UNITED STATES MAGISTRATE JUDGE

Date: June 27, 2024

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